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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7112 OF 2003

Miss Yvonne Furtado ... Petitioner

V/s

1. The Presiding Officer,
   2nd Labour Court, Bandra.
2. CEAT Limited. ... Respondents

ALONGWITH
WRIT PETITION NO. 1621 OF 2007
(ORIGINAL SIDE)

CEAT Limited ... Petitioner

V/s

Miss Yvonne Furtado ... Respondent

Miss Yvonne Furtado, petitioner in W.P.No. 7112 of 2003 and respondent in W.P.No.1621 of 2007 present in person.

Ms. S.K. Talsania with Mr. Mahesh Londhe i/by M/s. Sanjay Udeshi & Co. for the Resp.No.2 in W.P. No. 7112 of 2003 and for the petitioner in W.P.No. 1621 of 2007.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 4TH AUGUST, 2007.

P.C.:

1. Both these petitions challenge the order dated 23.4.2003 passed by the Labour Court in Reference (IDA) No. 548 of 1992. By this order, the Labour Court had

held that the enquiry conducted against the workman, who is the petitioner in Writ Petition No. 7112 of 2003 and the respondent in Writ Petition No. 1621 of 2007, was not fair and proper.

2. The services of the workman were terminated by the Company who has filed Writ Petition No. 1621 of 2007. On 19.10.1977 the workman joined the services of the Company. In the year 1991, the workman was issued a chargesheet for certain acts of misconduct. According to the workman, the chargesheet was signed by a person who was not authorized to issue such a letter. An enquiry was held against her which resulted in her dismissal from service. That dismissal order was also not signed by a officer competent to issue such a order, according to the workman.

3. Aggrieved by the order of dismissal, the workman raised a dispute under the Industrial Disputes Act and obtained a reference for adjudication, being Reference (IDA) No. 548 of 1992.

4. The Labour Court initially decided the issue as to whether the enquiry held against the workman was fair and proper. Evidence was led by both parties and Labour Court concluded that the enquiry which was held against

the workman was not in accordance with the principles of natural justice. It therefore directed by the Award Part-I dated 23.4.2003 that the Company should lead evidence before the Court to prove the charges against the workman. Both, the workman and the Company, are aggrieved by this Award.

5. The workman, who appears in person, has submitted that the Labour Court was in error while deciding Award Part-I since it has not considered the issue raised by the workman regarding the competence of the officer to sign the chargesheet as well as the dismissal order. She also submits that the Labour Court has recorded the facts of the matter, wrongly, which need correction by this Court. She then submits that, despite the fact that the evidence was led on various issues before the Labour Court, pursuant to the orders of this Court in Writ Petition No. 1604 of 2000, the Labour Court has considered her evidence as not relevant. The last submission made by the workman is that she should be paid exemplary costs by the Company, who, according to the workman, has wasted 17 precious years of her life.

6. The Labour Court has held that the enquiry is not fair and proper principally on two grounds: the first is that the workman was not allowed to be represented by

an advocate and the second is that she was not given an opportunity to lead evidence at the enquiry. Besides these issues, several other points were raised by the workman. The question which goes to the root of the dispute as to whether the person who issued the chargesheet and the order of dismissal was empowered to do so, has not been answered by the Labour Court, though raised by the workman.

7. In such circumstances, the Award Part-I dated 23.4.2003 is set aside. Reference (IDA) No. 548 of 1992 is remanded for a fresh determination of the dispute. The Labour Court will determine the following issues while deciding Award Part-I:

(i) Whether the person who has issued the chargesheet and the dismissal order was competent to do so ?

(ii) Whether the enquiry held against the workman was fair and proper ?

(iii) Whether the findings recorded by the enquiry officer are perverse ?

8. The workman insists that costs should be awarded to

her for wasting time, as she calls it in this Court. When the petition was admitted in 2004, I had enquired from the workman whether she was agreeable to have the Award set aside at that stage itself and to have the reference remanded. However, the workman insisted that she wanted the High Court to decide all issues and, therefore, the petition was admitted. In such circumstances, I see no reason to award costs to the workman. However, if the Labour Court, at the final disposal of the award, finds that costs should be awarded, the Labour Court may grant the costs.

9. The Labour Court to decide the Award Part-I within six months from today. The Labour Court will complete Award Part-II within six months thereafter.

10. Both the writ petitions disposed of accordingly.

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